

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
The Commercial Mobile Alert System)	PS Docket No. 07-287
)	
<hr style="width:50%; margin-left:0"/>)	PS Docket No. 08-146

To: The Public Safety and Homeland Security Bureau

REQUEST FOR WAIVER AND EXTENSION OF TIME TO IMPLEMENT CMAS

RSA 1 Limited Partnership d/b/a Chat Mobility (“RSA1 LP”), Iowa RSA 2 Limited Partnership d/b/a Chat Mobility (“RSA 2 LP” and collectively with RSA 1 LP, “Chat Mobility”), and Northwest Missouri Cellular Limited Partnership d/b/a NorthwestCell (“NorthwestCell” and collectively with Chat Mobility, the “Petitioners”), by their attorneys and pursuant to Sections 1.3 and 1.925 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”),¹ request a waiver and an extension of the April 7, 2012 deadline by which commercial mobile service (“CMS”) providers electing to participate in the Commercial Mobile Alert System (“CMAS”) were to have the capability to receive and transmit CMAS alerts to their subscribers.² Specifically, the Petitioners seek a limited extension until the completion of testing

¹ 47 C.F.R. §§ 1.3 & 1.925.

² See *in re The Commercial Mobile Alert System*, Order, DA 12-1267 (PSHSB, rel. Aug. 3, 2012) (“*Waiver Order*”). The Petitioners are members of RCA—The Competitive Carriers Association (“RCA”), and Chat Mobility is a member of the Rural Telecommunications Group, Inc. (“RTG”). In denying the requests of RCA and RTG for a waiver of the April 7th deadline for the wireless industry generally or their member carriers, the Commission stated, “Individual carriers

and the establishment of production connectivity with the Federal Emergency Management Agency (“FEMA”) Integrated Public Alert and Warning System (“IPAWS”) Alert Aggregator Gateway in order to be able to receive and transmit CMAS alerts consistent with the Petitioners’ elections.

I. Background

Chat Mobility provides Commercial Mobile Radio Services (“CMRS”) to subscribers and roamers in twelve (12) counties in Iowa in the Iowa 1 and Iowa 2 Cellular Market Areas (“CMAs”). NorthwestCell provides CMRS to subscribers and roamers in five (5) counties in Missouri in the Missouri 1 CMA.

In 2008, Chat Mobility and NorthwestCell initially elected to participate in CMAS. In September of 2010, however, in light of uncertainty about the feasibility of CMAS for small carriers, the Petitioners notified the Commission of their elections to withdraw from participation in CMAS.³ The Petitioners, however, desired to provide their customers with emergency alerts and continued to monitor the development of CMAS and to explore solutions that would enable small carriers to participate.

In the fall of 2011, the Petitioners determined that it would be feasible for them to participate in CMAS by utilizing their jointly-owned switching provider, Hawkeye Switching, LLC (“Hawkeye”), to acquire and operate the Commercial Mobile Service Provider (“CMSP”)

may continue to file requests for waiver which we will consider on a case-by-case basis.”
Waiver Order footnote 40.

³ See Letter from RSA 1 Limited Partnership d/b/a Chat Mobility in PS Docket 08-146, dated Sept. 9, 2010; Letter from Iowa RSA 2 Limited Partnership d/b/a Chat Mobility in PS Docket 08-146, dated Sept. 9, 2010; Letter from Northwest Missouri Cellular Limited Partnership in PS Docket 08-146, dated Sept. 10, 2010.

Gateway and Broadcast Message Center (“BMC”).⁴ On October 6, 2011, the Petitioners and Hawkeye contacted FEMA and began discussions regarding the documentation and procedures necessary for Hawkeye to act as the CMSP Gateway and for the Petitioners to implement CMAS. In addition, on November 1, 2011, the Petitioners notified the FCC of their election to participate in CMAS.⁵

Hawkeye acquired and deployed the CMSP Gateway and BMC platform in January of 2012. The Petitioners and Hawkeye, however, continued to work with FEMA regarding the documentation necessary to connect to the IPAWs, begin testing, and deliver alert messages. There was confusion regarding the correct Memorandum of Agreement (“MOA”) and Interconnection Security Agreement (“ISA”) to utilize in this case because Hawkeye was going to act as the CMSP Gateway provider to its carrier owners, and FEMA and the Department of Homeland Security (“DHS”) had to modify the documentation to reflect this unusual situation.⁶

⁴ Chat Mobility and NorthwestCell collectively own Hawkeye, which among other things, provides switching services and SS7 connectivity to the Petitioners. This allows the Petitioners to achieve greater efficiencies and economies of scale despite being small, Tier III rural wireless carriers.

⁵ See Letter from RSA 1 Limited Partnership d/b/a Chat Mobility in Docket 08-146 dated Nov. 1, 2011; Letter from Iowa RSA 2 Limited Partnership d/b/a Chat Mobility in PS Docket 08-146, dated Nov. 1, 2011; Letter from Northwest Missouri Cellular Limited Partnership in PS Docket 08-146, dated Nov. 1, 2011.

⁶ As the Commission explained in the *Waiver Order*:

In order to deliver CMAS alerts to their subscribers, participating wireless carriers must establish a connection with the Federal Emergency Management Agency’s (FEMA) Integrated Public Alert and Warning System (IPAWS) Alert Aggregator Gateway (gateway). A necessary predicate for carrier connection to the IPAWS gateway is successful execution of two contractual agreements: the Memorandum of Agreement (MOA) and the Interconnection Security Agreement (ISA). The MOA is between the carrier and FEMA and establishes the terms governing the management, operation, and security of a connection between the carrier and IPAWS for the delivery of CMAS alerts. The ISA is between the carrier on one side, and FEMA and the Department of Homeland Security (DHS) on the other,

This was more complicated and took longer than anyone anticipated. During this time, the Petitioners and Hawkeye diligently worked with FEMA.

On March 14, 2012, FEMA was finally able to deliver the necessary documentation to Hawkeye and the Petitioners for their execution. Hawkeye delivered the executed test and production ISAs to FEMA on March 14, 2012. NorthwestCell and Chat Mobility delivered the executed test and production MOAs to FEMA on March 15, 2012 and March 16, 2012, respectively.⁷ On March 27, 2012, FEMA indicated that the documents were acceptable and would be executed and delivered by FEMA.

FEMA delivered fully-executed MOAs for Chat Mobility and NorthwestCell on May 4, 2012, however, FEMA did not deliver the fully executed ISAs with Hawkeye at that time. Accordingly, Hawkeye could not commence and complete testing or deliver alert messages to Chat Mobility and NorthwestCell. FEMA delivered the executed test and production ISAs to Hawkeye on July 17, 2012. Accordingly, the Petitioners and Hawkeye did not receive all the necessary documentation from FEMA/DHS to commence testing or deliver alert messages until July 17, 2012.

and addresses the security requirements for the virtual private network (VPN) that DHS sets up to act as the “C” interface between the carrier’s gateway, or a gateway provided to the carrier by a third party provider (TPP), and the IPAWS gateway. If a carrier is using a TPP to provide its gateway, only the TPP enters into the ISA with FEMA and DHS. One TPP may have multiple carrier clients. Each document type (MOA and ISA) has a test phase version and a production phase version, each of which must be separately negotiated and executed.

Waiver Order at ¶ 3.

⁷ RSA 1 LP, RSA 2 LP, and NorthwestCell executed and delivered production MOAs to FEMA. Since the CMAS capability could be fully tested on one network, there was no need to execute test MOAs for each network. Accordingly, only RSA 1 LP and Hawkeye executed and delivered test MOAs.

Although FEMA has now delivered the ISAs to Hawkeye, FEMA/DHS still need to establish the necessary secure VPN between the IPAWs gateway and the Hawkeye CMAS platform in order to commence and complete testing. DHSOneNet has not yet contacted Hawkeye to establish the secure VPN and commence testing.

As explained above, despite only electing to participate in CMAS in November of 2011, the Petitioners and Hawkeye installed the necessary hardware and software, and delivered all required, executed documentation to FEMA in order to implement CMAS well before the April 7th deadline. Accordingly, the Petitioners exercised diligence in trying to meet the April 7, 2012 CMAS commencement date. But for circumstances beyond their control, the Petitioners would have been able to receive and deliver CMAS alert messages as of April 7, 2012.

In the intervening period between the Petitioners' delivery of documentation to FEMA in mid-March and FEMA's delivery of the ISAs to Hawkeye on July 17, 2012, another circumstance beyond the Petitioners' control has arisen that now may further delay the Petitioners' implementation of CMAS. Specifically, Hawkeye is now in the middle of an SS7 migration. Hawkeye is migrating its current Executive Cellular Processor ("ECP") complex to an ECPLess architecture, which includes SS7 connectivity. Hawkeye's current platform is being phased out by Hawkeye's vendor and will no longer be supported after this year. Testing of the new platform, however, resulted in an unacceptably high number of errors. Accordingly, Hawkeye is working diligently with its vendor to resolve these issues to migrate to the new platform. The Petitioners do not want to hastily move their SS7 connectivity to an unreliable platform, as that will impact all call processing. Currently, Hawkeye is scheduled for another attempt to move the SS7 facilities to the new platform on August 24, 2012.

Although it might be possible to test and implement CMAS on the current platform, this would be wasteful and inefficient. It would not be in the public interest to require the Petitioners to test and implement CMAS on the old SS7 platform when migration to the new platform is imminent. Moreover, the new platform will better support CMAS in a commercial environment by assigning CMAS messages higher priority, thus assuring delivery even during times of congestion. Rather than testing and commencing production with Hawkeye's legacy SS7 platform, the Petitioners request a brief extension, to the extent necessary, to allow Hawkeye to migrate to the new platform and then commence testing and implementation with FEMA. As noted above, FEMA only delivered the executed ISAs on July 17th, and DHSOneNet has not yet established the secure VPN with Hawkeye to commence testing. Accordingly, Hawkeye may have the new platform implemented before CMAS testing and production would have been accomplished even without the migration.

To the extent necessary, however, the Petitioners seek an extension of the CMAS deadline until the completion of the SS7 migration and completion of testing and implementation with FEMA. The Petitioners anticipate that they will be able to implement CMAS in the next eight to ten (8-10) weeks. Since this depends on testing with and implementation by FEMA/DHS, however, it is beyond the Petitioners' control. The Petitioners can provide the Commission a status update as of November 15th and every 90 days thereafter.

II. Grant of a Brief Extension of Time is Consistent With the Rules and Commission Precedent and Will Serve the Public Interest

The Petitioners request a waiver and brief extension of time to implement CMAS pursuant to rules 1.3 and 1.925.⁸ Pursuant to rule section 1.925, the Commission may waive its

⁸ 47 C.F.R. §§ 1.3 and 1.925.

rules when a party demonstrates: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, contrary to the public interest, or the applicant has no reasonable alternative.⁹ The Commission also may waive its rules for good cause shown.¹⁰ As demonstrated herein, the Petitioners satisfy the standards for grant of a waiver.

Hawkeye installed the necessary hardware and software, and the Petitioners and Hawkeye delivered all required executed documentation to FEMA well before the April 7th date. Hawkeye and the Petitioners have been engaged and working with FEMA since their election to participate in CMAS. The Petitioners proceeded in a timely and diligent manner to meet the deadline but were unable to do so due to unexpected circumstances beyond their control, *i.e.*, the delay in receipt of the MOAs/ISAs and intervening problems with the migration of Hawkeye's SS7 platform. *See Waiver Order* at ¶ 8.

In the *Waiver Order*, the Public Safety and Homeland Security Bureau ("Bureau") reiterated, "The underlying purpose of the April 7 deadline was to ensure that consumers have access to CMAS alerts over their mobile devices in as timely a fashion as possible."¹¹ Consistent with the relief afforded in the *Waiver Order*, the underlying purpose of the rules would not be served by holding the Petitioners to the April 7 deadline. *See Waiver Order* at ¶ 8. In the *Waiver*

⁹ *See* 47 C.F.R. § 1.925.

¹⁰ *See* 47 C.F.R. § 1.3.

¹¹ *Waiver Order* at ¶ 8, citing *in re The Commercial Mobile Alert System*, Third Report and Order, 23 FCC Rcd 12561, at 12582-83 ¶ 53 (2008) ("[T]he CMAS timeline rules that we adopt today" are related to "the need to ensure timely deployment of CMAS").

Order, the Bureau wisely recognized, “Given the voluntary nature of CMAS participation, penalizing petitioners because of circumstances beyond their control would in fact have the adverse effect of motivating carriers *not* to participate in CMAS. This would clearly frustrate the timely deployment of CMAS.” *Id.* The Bureau also found that because of the extensive public safety benefits of CMAS, promoting carrier participation in CMAS to the greatest extent possible is consistent with the public interest.

Not only would denial of the relief requested herein frustrate the purpose of CMAS deployment, but also would be inequitable and contrary to the public interest. The Petitioners’ situation is unusual in that their jointly-owned switching company – rather than a third-party service bureau – deployed the CMSP Gateway. This was an unusual situation and required additional work by FEMA/DHS which resulted in unanticipated additional delay.

Finally, the Petitioners elected to participate in CMAS only on November 1, 2011. The relatively short period that has passed since their election also militates in favor of a brief extension of time. *See Waiver Order* footnote 33.

III. Conclusion

For the reasons stated herein, the Commission should grant the requested relief and afford the Petitioners an extension of time in which to implement CMAS.

Respectfully submitted,

RSA 1 Limited Partnership
d/b/a Chat Mobility

Iowa RSA 2 Limited Partnership
d/b/a Chat Mobility

Northwest Missouri Cellular, Limited
Partnership d/b/a NorthwestCell

A handwritten signature in black ink, appearing to read 'G. W. Whiteaker', with a long horizontal flourish extending to the right.

By: _____

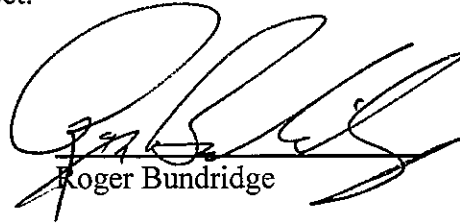
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August 15, 2012

Declaration of Roger Bundridge

I, Roger Bundridge, do hereby declare under penalty of perjury the following:

1. I am the General Manager of Northwest Missouri Cellular Limited Partnership d/b/a NorthwestCell.
2. I have read the foregoing Request for Waiver and Extension of Time to Implement CMAS. I have personal knowledge of the facts set forth therein, and believe them to be true and correct.



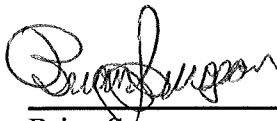
Roger Bundridge

Dated: August 15, 2012

Declaration of Brian Spurgeon

I, Brian Spurgeon, do hereby declare under penalty of perjury the following:

1. I am the General Manager of RSA 1 Limited Partnership d/b/a Chat Mobility and Iowa RSA 2 Limited Partnership d/b/a Chat Mobility.
2. I have read the foregoing Request for Waiver and Extension of Time to Implement CMAS. I have personal knowledge of the facts set forth therein, and believe them to be true and correct.



Brian Spurgeon

Dated: August 15, 2012